

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FREEDOM FROM RELIGION	:	
FOUNDATION, INC.; DOE 1, by Doe	:	C.A. No. 12-1319
1's next friend and parent MARIE	:	
SCHAUB, who also sues on her own	:	Electronically Filed
behalf,	:	
	:	Judge Terrence F. McVerry
Plaintiffs,	:	
vs.	:	JURY TRIAL DEMANDED
	:	
NEW KENSINGTON-ARNOLD	:	
SCHOOL DISTRICT,	:	
	:	
Defendant.	:	

**APPENDIX TO DEFENDANT'S
CONCISE STATEMENT OF MATERIAL FACTS AND
CORRESPONDING BRIEF IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

VOLUME I

Dated: December 12, 2014

Respectfully submitted,

SANCHEZ LEGAL GROUP, LLC

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

WILLIAM A. BOOKS and MICHAEL) CASE NO. 3:98CV0230AS
SUETKAMP,)
Plaintiffs,)
vs.)
CITY OF ELKHART,)
Defendant)

AFFIDAVIT OF E. J. RUEGEMER

E. J. Ruegemer hereby states as follows:

1. I was born July 29, 1902. I currently reside in Alexandria, Minnesota. With respect to the above-captioned matter, because of my age, I do not wish to travel to South Bend, Indiana, or to participate in any formal legal proceedings, other than to prepare this affidavit for possible use in the above-captioned matter.
2. I am retired from the Stearns County Juvenile Court bench, where I served as a judge from 1941 to 1947, and the State of Minnesota District Court bench from 1947 to 1967. In my private life, as one way to participate in civic affairs, I was Chief Justice and Chairman of the Youth Guidance Committee of the Fraternal Order of Eagles.
3. In my work as a juvenile court judge, I came in frequent contact with youngsters who were in trouble with the law. It seemed to me that many of them were without any code of conduct or standards by which to govern their actions. About the year 1943, it occurred to me that

they could benefit from exposure to one of mankind's earliest codes of conduct, the Ten Commandments. This was not to be religious instruction of any kind, but to show these youngsters that there were such recognized codes of behavior to guide and help them. I developed the idea of posting a copy of the Ten Commandments in each juvenile courtroom in the State of Minnesota and later in juvenile courtrooms throughout the country.

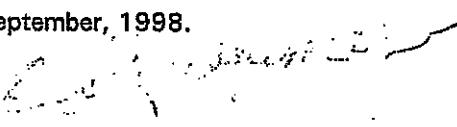
4. Such a program would require funding. I presented this idea to the Fraternal Order of Eagles, seeking their support. Initially, the idea was rejected by the Eagles because it was felt this might seem coercive or sectarian. Eventually, however, representatives from the Jewish, Protestant, and Roman Catholic communities joined together and developed a version of the Ten Commandments which was not identified with any one religious group; and on this basis, the Eagles agreed to support such a Youth Guidance program.
5. While this program was being developed, I received a telephone call from motion picture producer Cecil B. DeMille, who was making a film called the "Ten Commandments". He told me that he thought the program was a wonderful idea and suggested that rather than paper copies, the Ten Commandments be put on bronze plaques for distribution throughout the country. I said that since the original Ten Commandments were on granite that this would be an even more suitable material. He agreed, and I worked with two local Minnesota granite companies to produce

granite monuments inscribed with the Ten Commandments. Local series of Eagles throughout the country paid for monuments which they presented to their communities.

6. Ceremonies were held in connection with the presentation of most of the monuments and some were attended by the film actors who appeared in the Cecil B. DeMille movie; by city, county, and state officials; the Boy Scouts of America; and other civic organizations. Charlton Heston, who played Moses in the film, appeared at one ceremony, and Martha Scott, who played the mother of Moses, appeared at another.

I affirm under the penalties for perjury that the foregoing representations are true.

Dated this 22 day of September, 1998.


E. J. Ruegemer

NewKen-Arnold 00129

1 THE UNITED STATES DISTRICT COURT FOR THE
2 WESTERN DISTRICT OF PENNSYLVANIA

3
4 -----
5 **FREEDOM FROM RELIGION FOUNDATION, INC., DOE 1,**
6 **by DOE 1's next friend and parent, MARIE**
7 **SCHAUB, who also sues on her own behalf, DOE**
8 **2, by DOE 2's next friend and parent DOE 3,**
9 **who also sues on DOE 3's own behalf,**

10 Plaintiffs,

11 -vs-

12 **NEW KENSINGTON-ARNOD SCHOOL DISTRICT,**

13 Defendant.

14 -----
15 **Examination Before Trial of **GEORGE****
16 **BATTERSON**, held before Brittany M. Whelan,
17 Notary Public, at 170 Franklin Street, Suite
18 601, Buffalo, New York, on May 6, 2014 at
19 10:00 AM, pursuant to notice.

20 APPEARANCES: **STEELE SCHNEIDER**
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34 -----
35 **DEPAOLO-CROSBY REPORTING SERVICES, INC.**

36 170 Franklin Street, Suite 601, Buffalo, New York 14202
37 716-853-5544

GEORGE BATTERSON -- BY MR. SCHNEIDER -- 5/6/14

1 best to ask coherent questions. Sometimes
2 there will be one that comes out kind of funny
3 and it's hard to make sense of. If you don't
4 understand my question, just let me know that
5 and I'll try to rephrase it in a way that
6 makes sense. If you do answer the question,
7 I'll assume you understood it as it was asked;
8 is that understood?

9 A. Okay. Great.

10 Q. Okay. I've had a chance to review a number of
11 documents in this case that I believe
12 represent emails that you authored. Based
13 upon those documents, I came away with the
14 conclusion that you are a practicing
15 Christian; would that be fair to say?

16 A. Yes.

17 Q. And do you identify with any particular sector
18 denomination of Christianity?

19 A. I'm a Episcopalian actually by birth, but I've
20 been going to a Christian Church this last
21 year.

22 Q. Okay. And in your time at the District, how
23 long were you superintendant there?

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GEORGE BATTERSON -- BY MR. SCHNEIDER -- 5/6/14 --

1 A. Five years.

2 Q. Okay. And that would be from 2007 to 2012?

3 A. Yes.

4 Q. Okay. And with respect to your religious
5 views during your tenure at the District,
6 would you say that you would have considered
7 yourself a Christian throughout your time
8 there?

9 A. Yes.

10 Q. And with respect to any particular
11 denomination, any shifts or changes during
12 that time?

13 A. No. At the time I attended the Episcopal
14 Church occasionally in New Kensington, but
15 actually I didn't go to church that much when
16 I was superintendent there. Since I came back
17 here to Buffalo I've been going to a Christian
18 Church every Sunday up here in Buffalo.

19 Q. Okay. I just want to try to get an idea
20 whether I'm going to need to specify in a
21 certain time period when I'm asking questions
22 whether your views have changed. We'll just
23 deal with that as we go along.

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GEORGE BATTERSON -- BY MR. SCHNEIDER -- 5/6/14

1 some former students, and had indicated that
2 you would say a little prayer when you walked
3 by the Ten Commandments monument at the high
4 school whenever you were present; does that
5 ring a bell?

6 A. It's true. I did write that to a couple of
7 students in emails. And yes, because I was
8 walking around the high school frequently and
9 often going to sports events especially, we
10 would talk by the Ten Commandments. They're
11 actually not at the main entranceway. They're
12 at kind of a sports entranceway. But when I
13 walked by them sometimes I would say a silent
14 prayer.

15 Q. Okay. And you sort of anticipated perhaps,
16 one of my questions was whenever you were
17 moved to pray at the Ten Commandments, was it
18 a silent practice or was it not silent?

19 A. It was silent. No one would ever know I was
20 praying.

21 Q. Okay. And now do you recall there being
22 anywhere else on the Valley High School
23 grounds other than at the Ten Commandments

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GEORGE BATTERSON -- BY MR. SCHNEIDER -- 5/6/14

1 monument where you were moved to prayer?

2 A. Well, no. There's nothing like the monument
3 that is there or anything, but I pray all the
4 time actually. Especially when I was the
5 school superintendent. I used to ask God to
6 try to help me to help the children. I
7 actually do a lot of silent prayers during the
8 day.

9 Q. Okay. But I think the first part of your
10 answer you said there's really no other
11 structures on the school ground that moved you
12 to prayer?

13 A. Right.

14 Q. Okay. And now, at some point you received a
15 letter from the Freedom From Religion
16 Foundation requesting that the monument at the
17 school be removed; do you recall that?

18 A. Yes.

19 Q. And would it be fair to say that you saw that
20 as an opportunity to sort of affirm the word
21 of God?

22 A. No. I don't believe so. I did receive the
23 letter and I took the letter to my Board of

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GEORGE BATTERSON -- BY MR. SCHNEIDER -- 5/6/14

1 School Directors in executive session and had
2 them read it. What happened -- I guess I'll
3 tell you about it. I received the letter and
4 I took it to executive session at the Board
5 meeting. I read the letter to the Board of
6 School Directors. I didn't even say a word.
7 I just read them the letter and said we
8 received this and you should be aware of it.
9 After I finished speaking and reading the
10 letter, all of the Board Members, all nine of
11 them said that I should consult with legal
12 counsel about this because they wanted to keep
13 the monument on the front lawn of the high
14 school.

15 Q. Okay. And do you recall if one of your
16 solicitors or other legal counsel was present
17 during that meeting?

18 A. I believe Tony Vigilante [phonetic] was
19 present because he was always in our executive
20 sessions.

21 Q. Okay. And so you referenced the Board, and I
22 think I have the name of the Board Members at
23 that time and if I could just run through them

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GEORGE BATTERSON -- BY MR. SCHNEIDER -- 5/6/14

1 to make sure it sounds right and I know it may
2 be asking you to remember a lot but maybe you
3 do know. At that time was Robert Pallone the
4 president of the Board?

5 A. Yes.

6 Q. And do you recall, Dr. Batterson, a gentleman
7 by the name Jason Fularz being the vice
8 president of the Board?

9 A. At that time I don't think Jason was on the
10 Board when we first received the letter but
11 I'm not positive. You'd have to look back on
12 the date of the letter.

13 Q. Okay. I can check that. Do you recall Regina
14 Namey being on the Board at that time?

15 A. It's the same answer. I don't know whether
16 Regina was on when we received the letter.
17 She's a new member and so is Jason.

18 Q. Okay. Since I can verify that, let me just
19 ask you this, and you may have already said
20 this in your earlier response, were there any
21 of the Board Members, whenever you initially
22 presented them with this letter, that sided
23 with removing the monument?

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GEORGE BATTERSON -- BY MR. SCHNEIDER -- 5/6/14

1 monument being present on the District
2 property?

3 A. I noticed it during the interview process when
4 I was interviewing for the superintendant
5 because I happened to be told to go in that
6 entranceway instead of the main entranceway
7 and I noticed it then.

8 Q. Okay. And that would have been back in 2007,
9 right?

10 A. Yes.

11 Q. Okay. Between 2007 and your receipt of the
12 letter, do you recall discussing the monument
13 with anyone, any District employees?

14 A. No, never. In fact, no one ever commented on
15 it ever until I got the letter from the
16 Freedom From Religion Foundation.

17 Q. Okay. So just for clarity, that would cover
18 students as well? There was no discussion
19 with students about the monument?

20 A. No, never. No one ever objected to it or said
21 anything about it.

22 Q. And you're referring to your time at the
23 District?

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GEORGE BATTERSON -- BY MR. SCHNEIDER -- 5/6/14

1 and now, have you ever read the entirety of
2 the monument?

3 A. I don't know that. I don't remember ever
4 stopping and actually looking at it and
5 reading them. I knew what it was, but I don't
6 actually remember standing in front of the
7 monument ever and reading them. I used to
8 walk by it a lot.

9 Q. Sure. But is it fair to say from very early
10 on, perhaps your first encounter with it, you
11 recognized it to be the Ten Commandments?

12 A. Yes, I did.

13 Q. Okay.

14 A. Especially when I got the letter from the
15 Freedom From Religion Foundation I'm sure that
16 I looked at it really in detail then because I
17 do remember the Star of David was on it and so
18 knowing that means that I took a good look at
19 it. I really was not that -- it really was
20 never anything of any issue or discussion
21 amongst any of us, but after I got the letter,
22 I looked at it I think better.

23 Q. Okay. Do you recall having any difficulty

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GEORGE BATTERSON -- BY MR. SCHNEIDER -- 5/6/14

1 petition, we would have reprimanded that.

2 Q. Why is that?

3 A. Because we should not be doing that. We're
4 not trying to instill religious beliefs in our
5 students, we're just trying to educate them.
6 The controversy over the Ten Commandments
7 should be handled by our legal counsel.

8 There's no way we should be trying to go out
9 and get support, you know, actively getting
10 support for the Ten Commandments.

11 Q. Okay. Well -- so as you read through this
12 P-2, do you find it to be that the statement
13 contained in there to be inconsistent with
14 what you understood the District's position on
15 the issue to be?

16 A. The District's position on the issue was that
17 it's a historical landmark and -- let me just
18 read this again.

19 Q. Sure.

20 A. After sincerely it says I'm signing this
21 because of the historical significance, that's
22 good; we would agree with that. But then it
23 goes on to say I want to clarify that the Ten

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GEORGE BATTERSON -- BY MR. SCHNEIDER -- 5/6/14

1 MR. SCHNEIDER: Sure.

2 MR. SANCHEZ: And make sure it's
3 employees and not Board Members.

4 MR. SCHNEIDER: Sure.

5

6 BY MR. SCHNEIDER:

7 Q. Previously you testified that you were
8 approached by, I think you said some teachers
9 and principals, I believe that was your
10 response. You can correct me if I'm wrong.

11 A. Right.

12 Q. So was that your testimony?

13 A. Yes, that's true.

14 Q. Okay. So you recall in certain situations
15 being approached by specific teachers who were
16 expressing support for the decision?

17 A. Yes.

18 Q. Do you recall whether any of those
19 conversations involved a statement of support
20 that you felt was based upon a religious
21 reason?

22 A. I really do not recall anyone saying that to
23 me. Mostly I remember people saying that they

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GEORGE BATTERSON -- BY MR. SCHNEIDER -- 5/6/14

1 supported our stance, that it was a historical
2 monument. But mostly what I remember most of
3 the conversations were saying why does this
4 group from Wisconsin want to impose their will
5 on us. Why don't they just mind their own
6 business. That's really about what 90 percent
7 of the people kept saying to me.

8 Q. Okay. Do you agree or do you also believe
9 that the monument was historic?

10 A. Yes.

11 Q. And in what ways do you believe that the
12 monument was or still is historic?

13 A. Because it was donated by the Fraternal Order
14 of the Eagles in 1957 and it's been there so
15 long. It's become a part of the front lawn of
16 the high school for all of those years. I saw
17 it more of a historical significance because
18 we never tried to impose any religious beliefs
19 on our children. It was a public high school
20 and our mission was to try to educate the
21 students and not try to instill values in
22 them. So I just think that it had been there
23 a long time and it's related to the school

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GEORGE BATTERSON -- BY MR. SCHNEIDER -- 5/6/14

1 because of the fact that it's been there since
2 the school was constructed.

3 Q. Okay. So the historic aspect of the monument
4 in your mind comes from essentially 50 plus
5 year tenure in the position that it's
6 currently in?

7 A. Right.

8 Q. Okay. Do you recall when you came to learn
9 about how the monument was originally placed
10 in it's current location?

11 A. I think it was after I received the letter
12 when I was told. I mean, really it was a
13 pretty insignificant thing. There was never
14 any discussions about it or anything until
15 after the letter was received and then we
16 started looking into it with our attorneys and
17 people started talking about it.

18 Q. If you recall, do you feel that you would have
19 found the monument to be historic when you
20 first saw it in 2007?

21 A. The first time I saw the monument I didn't
22 know anything about it really. When I walked
23 into the entranceway, I just noticed that it

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1 Sarah Castanza [phonetic], is that Danielle's
2 mom?

3 A. Yes. That's my sister, Danielle's mom.

4 Q. Okay. All right. Just call your attention to
5 the third paragraph from the bottom.

6 A. Okay.

7 MR. SANCHEZ: Which document? P-8 or
8 P-9?

9 MR. SCHNEIDER: P-9.

10 Q. The sentence begins I have the total support;
11 do you see that?

12 A. Yes.

13 Q. Reading a little further it says I have the
14 total support of the students in my school.
15 Did you have any conversations with students
16 at the school about how they felt about the
17 issue of the Ten Commandments?

18 A. Students would say to me that they supported
19 the District's stance just like teachers would
20 say.

21 Q. Okay. About how many students would you say
22 approached you and told you that they
23 supported the stance?

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1 A. I don't know, Marc. I could guess.

2 MR. SANCHEZ: No. You can't guess.

3 THE WITNESS: Okay.

4 Q. Well, would it be fair to say that you talked
5 to enough students on the issue that you felt
6 pretty comfortable saying that there was
7 unanimous support among the students?

8 A. I think there was unanimous support amongst
9 the student body, yes. I didn't really have
10 big discussions with them about it. They
11 would be saying just like teachers that we
12 support your stance, we're happy the monument
13 is there; that kind of thing.

14 Q. Okay. When I asked you previously about your
15 personal reaction to that letter in March, we
16 got into the meeting with the Board and that,
17 you know, you said that basically you would
18 have done what they directed. Going back to
19 that, did you have a personal preference that
20 the monument stay when you received the
21 letter?

22 A. Yeah. When I received the letter, I did want
23 to have the monument stay.

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1 I never really asked questions about when was
2 it put there or we didn't talk about it.

3 Q. And in fact, I think Mr. Pallone said he
4 didn't even know it was the Ten Commandments
5 monument until the letter was sent. Did you
6 have some other, not to suggest that he told
7 you that, but did you have any individuals
8 express that point of view to you?

9 A. No. I don't remember anyone saying that. I
10 remember people saying to me that they don't
11 even notice it. It's not really conspicuous,
12 it's just there.

13 Q. Okay. Was your personal preference that the
14 monument say motivated at all by your
15 religious views?

16 A. Yeah.

17 MR. SANCHEZ: Objection to vague. At
18 what time period?

19 MR. SCHNEIDER: Sure. That's fair.

20 Q. We had just been discussing your initial
21 reaction and that's where I want to focus my
22 question. You initially received this letter
23 and your sort of immediate response is that

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT
OF PENNSYLVANIA

* * * * *

FREEDOM FROM RELIGION*
FOUNDATION, INC.; DOE*
1, by Doe 1's next *Civil Action No.
friend and parent *12-1319
MARIE SCHAUB, who *
also sues on her own *JURY TRIAL
behalf; DOE 2, by *DEMANDED
Doe 2's next friend *
and parent DOE 3, *
who also sues on Doe *
3's own behalf, *
Plaintiffs *
vs. *
NEW KENSINGTON-ARNOLD*
SCHOOL DISTRICT, *
Defendant *

ORIGINAL

* * * * *

DEPOSITION OF

MARIE SCHAUB

April 18, 2014

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certifying agency.

1 Q. Is it your testimony that the Ten
2 Commandments monument is situated
3 directly in front of the main entrance of
4 the School District?

5 A. Of the high school, yes.

6 Q. Okay. I'd like you to go to page
7 --- let me get this right, third
8 paragraph --- let's go to page six. Do
9 you see paragraph 27 reads and I quote,
10 Plaintiff, Doe 1 attends Valley
11 School and has been exposed to the Ten
12 Commandment monument at Valley
13 School when visiting the school on
14 various occasions. Do you see that?

15 A. Yes.

16 Q. Is that true and accurate as far as
17 you know?

18 A. Yes.

19

20

21

22

23

24

25

1 numerous occasions to drop off your
2 sister, so your sister could attend to
3 necessary business at the school
4 regarding her child, such as orientation;
5 is that --- is that correct?

6 A. Yes.

7 Q. Okay. On those occasions, you
8 accessed the school through the primary
9 access road; is that correct?

10 A. Yes.

11 Q. Okay. How many occasions do you
12 think those were?

13 A. The amount listed. I'd say one,
14 two ---.

15 Q. Let me make ---.

16 A. Yeah, I'm not sure.

17 Q. This is more clear because that
18 isn't right.

19 A. Okay.

20 Q. How many times do you think that
21 you drove to the high school to drop your
22 sister off at the school so she could
23 attend to necessary business?

24 A. Once or twice.

25 Q. Okay. And what time of day would

1 you dropped her off?

2 A. - - -

3

4 Q. OK -

5

6 - - - - -

7

8

9 A. - - -

10 Q. - - -

11

12 - -

13 A. I'm sure the gymnasium has several
14 different entrances. That's what I'm
15 trying to tell you.

16 Q. You believe there are several
17 entrances to the gymnasium from outside?

18 A. I'm not sure.

19 Q. Okay.

20 A. I've only been to the school a
21 handful of times.

22 Q. Okay.

23 A. So I'm not familiar with the
24 architecture and the layout of their floor
25 plan.

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A.24

1 Q. Okay. I got it. Thank you. When
2 we're going through these Interrogatories,
3 I'm trying to --- what I'm trying to ---.

4 OFF RECORD DISCUSSION

5 BY ATTORNEY SANCHEZ:

6 Q. I apologize. But so we're clear,
7 what I'm trying to understand is the times
8 that you've been exposed to the monument
9 and I'm using this to go there. Okay?

10 -----

11

12

13

14 and then the times you dropped
15 off your ---

16 A. Sister.

17 Q. --- your sister. Those were the
18 times you were exposed to this; correct?

19 A. Yes.

20 Q. Is that all the times you were
21 exposed to this?

22 A. Yes, I can't recall any other
23 times.

24 Q. You can't recall any more? Okay.
25 Good.

1 A. I mean, you can --- it's visible
2 from the main road, but ---.

3 Q. Is that your testimony, it's
4 visible from the main road?

5 A. On our way here we could see it
6 from the main road.

7 Q. Could you see the writing on the
8 monument from the main road?

9 A. No, you can't.

10 Q. Okay.

11 A. But you know what it is and you
12 know what it says.

13 Q. How do you know what it is?

14 A. Because I've seen it before.

15 Q. Well, we've talked about three
16 times, I believe; right? We talked about
17 you personally,
18 but you. We talked about the times you
19 dropped off your sister

20 . Three times; right?

21 ^

22 ~

23 Q. Okay. Did you walk in or did you
24 just ---?

25 A. Nope, I just sat outside the

1 --- how close do you get to it walking
2 down the walkway? Would you say five
3 feet, ten feet?

4 A. Probably approximately 15 feet.

5 Q. So the closest you get to it when
6 you come down the walkway is 15 feet; is
7 that your estimate?

8 A. Yeah, I'd say that's pretty close.

9 Q. Okay.

10 A. It's pretty big, you can't miss it.

11 Q. Yes. Do you know that there's no
12 lights on it; correct? There's not a
13 light that lights it up?

14 A. You mean during ---?

15 Q. During the evening or during ---?

16 A. I'm not aware of any lights, ---

17 Q. Okay.

18 A. --- other than during the day.

19 Q. Yes. That's fine.

20 A. I wouldn't be on the school
21 property in the nighttime.

22 Q. I think we're describing it well
23 verbally. You're understanding what I'm
24 talking about, so I don't think we need a
25 picture. Would you agree with me that all

1 pull up to the curb ---

2 BY ATTORNEY SANCHEZ:

3 Q. Okay.

4 A. --- near the steps. So the sign
5 wouldn't be in the ---. When was this
6 taken? I'm thinking 2009?

7 ATTORNEY THOMPSON:

8 No.

9 BY ATTORNEY SANCHEZ:

10 Q. Whoops, I'm sorry.

11 A. That's okay. Okay, 2014. I
12 haven't been to the school in a couple of
13 years and I don't recall this gymnasium
14 pool sign here in the front.

15 Q. Okay. Do you know whether or not
16 it was there?

17 A. I don't recall seeing that sign
18 before.

19 Q. But you can't say for certainty
20 that it wasn't there; can you?

21 A. I can't say that it wasn't there,
22 but I don't recall seeing that sign.

23 Q. Fair enough. Even if that sign
24 wasn't there, looking at that, is it your
25 testimony --- even if that sign wasn't

1 there, is it your testimony that from
2 that distance you were able to read what
3 was on that monument?

4 A. No. Not from this, no.

5 Q. So from that distance, you couldn't
6 read the monument; is that correct?

7 A. From this distance, no. But I
8 wouldn't have pulled up at this distance.
9 I would have pulled up to the curb over
10 here. And that's not the viewpoint that
11 I would have had.

12 Q. Could you show me ---? Mark here
13 with a --- we'll use an X again since
14 it's a different exhibit. Mark where you
15 would have pulled up to.

16 WITNESS COMPLIES

17 BY ATTORNEY SANCHEZ:

18 Q. Is it your testimony from where you
19 have marked on Exhibit 11, that you could
20 read the monument?

21 A. No, I can't read the numbers. I
22 think I could probably read Lord from
23 that.

24 ATTORNEY SANCHEZ:

25 Let's mark this as Number

1 12.

2 (Schaub Deposition Exhibit
3 12 marked for
4 identification.)

5 A. Where it says the Ten Commandments.

6 BY ATTORNEY SANCHEZ:

7 Q. Okay.

8 A. But then again I have 20/15
9 eyesight.

10 Q. You think from where you marked on
11 Exhibit 11, you could read it said the
12 Ten Commandments? What I'm giving you as
13 Number 12 is an even closer view.

14 A. Yeah.

15 Q. You'd agree with me that that's
16 closer than what I showed you in Exhibit
17 11; right?

18 A. This is closer, obviously.

19 Q. Yes.

20 A. Yeah. It's still at the end of the
21 footbridge.

22 Q. Yes.

23 A. I could probably make out
24 commandments.

25 Q. If you were standing at the very

1 end of the footbridge on Exhibit 12 and
2 I'm going to put an X there. Okay?

3 A. Uh-huh (yes).

4 Q. If you were standing there where
5 the X is ---

6 A. Yep.

7 Q. --- it's your testimony that you
8 could read the Ten Commandments there?

9 A. I could read the word Commandments,
10 not all of the commandments.

11 Q. Okay.

12 A. But as I said, I have very good
13 eyesight.

14 Q. Humorous choice of words. Okay.

15 A. The word Ten Commandments, yes.
16 The actual commandments, no.

17 Q. Okay. All right. So going back to
18 Exhibit 11, Exhibit 11 where you circled,
19 that's where you say you were --- that's
20 where you observed every time

21
22

23 A. Yes.

24 Q. And where Exhibit 11 is marked in
25 the circle, is it your testimony from

1 Q. When you walked --- no. I know
2 you're saying you could. I want to make
3 this clear. When you walked down the
4 pathway, how much of it did you read at
5 the time that you saw it or the times
6 that you saw it walking past on the
7 walkway?

8 A. I don't know that I stopped to
9 actually read any of it.

10 Q. Okay. Fair enough.

11 A. Why would I?

12 Q. I don't know.

13 A. I saw the title on it, the Ten
14 Commandments, and I kept on walking.

15 Q. So is it your testimony you don't
16 think you read anything, other than the
17 Ten Commandments being written on it?

18 A. Sure, whenever I was in close
19 contact with it. But I've read, you
20 know, the Ten Commandments several times.

21 Q. I'm talking about this specific
22 monument. I want to know ---

23 A. Right.

24 Q. --- if you ever when you walked by
25 it, read --- what you read, what you saw,

1 what you looked at.

2 A. I saw the Ten Commandments at the
3 top of the monument.

4 Q. Sure. I understand that. Did you
5 read any ---?

6 A. I am thy Lord thy God. That's it.

7 Q. Did you read that part, too, the I
8 am the Lord thy God? Did you read that,
9 too?

10 A. Yes, I did, walking by it. And
11 then as soon as I read that line, my
12 stomach turned and I just kept on
13 walking.

14 Q. After you read I am the Lord your
15 God ---

16 A. Thy ---.

17 Q. --- thy God, pardon me, ---

18 A. Yeah.

19 Q. --- you read down to there and you
20 just quit reading it; is that correct?

21 A. Correct.

22 Q. How about above the Ten
23 Commandments?

24 A. I don't know that that is even ---.
25 I didn't stop to look at that. I don't

1 even know if that's English.

2 Q. Okay. You didn't read any of that?

3 A. No, I didn't read any of the top.

4 Q. I know there's a name for it and I
5 can't say it because I don't know this
6 stuff. But the diamond shape with the
7 eyeball in the middle of it and the lines
8 around it, did you see that?

9 A. Not at that event, no.

10 Q. So when you read ---? You could
11 see where it said the Ten Commandments, I
12 am the Lord thy God, but you never saw
13 the eyeball?

14 A. No.

15 Q. How about the eagle and the flag?

16 A. I didn't make note of it, no. The
17 thing that jumped out at me was the Ten
18 Commandments, I am the LORD, in capital
19 letters, thy God.

20 Q. Yes.

21 A. AM in capital letters. And as I
22 said ---.

23 Q. You don't recall at the times you
24 walked by seeing either the eye or the
25 American flag or the eagle?

1 A. No, I didn't pay attention to any
2 of it.

3 Q. Okay. Very good. All right.

4 A. I'm not even sure that I would make
5 note of it, other than in passing.

6 Q. Okay. I have sort of an odd
7 question for you.

8 A. Yeah.

9 Q. Looking at the Complaint, ---

10 A. Yeah.

11 Q. --- which is Exhibit Three, going
12 back to page six, ---

13 A. Right.

14 Q. --- we talked about the times where
15 you made contact with it and I think we
16 agreed they were when you were on the
17 street, either dropping your sister off
18 to do her business at the school

19

20

21

22

23

24 Q. Okay. So when you reference in
25 paragraph 32 necessary business at the

1 school, is that what you're talking
2 about?

3 A. Yes.

4 Q. Okay. I didn't want to go back to
5 it.

6 A. And at the time whenever I was
7 attending these events, it didn't even
8 occur to me --- I wasn't even educated on
9 the fact that they shouldn't be there. I
10 was just kind of like --- you know, I
11 didn't even really realize that it was
12 inappropriate to have it there.

13 Q. Are you talking --- you didn't
14 realize it was inappropriate when you
15 walked past it at the karate event?

16 A. Right.

17 Q. Okay.

18 A. I didn't put two and two together
19 that ---

20 Q. Okay.

21 A. --- this is a religious monument
22 and it's on public school property. I
23 kind of looked at it out of the corner of
24 my eye, didn't really think too much
25 about it and I just kept on walking.

1 Q. Have you seen the Supreme Courtroom
2 in Pittsburgh of the Pennsylvania Supreme
3 Court? It's in the Grant --- it's in the
4 --- pardon me, the City --- no, it's in
5 the --- yes, it is the ---.

6 A. I've seen the Ten Commandments on
7 the outside of the county building, along
8 with other similar looking plaques, not
9 only referencing Abraham and God.

10 Q. I think it's Moses.

11 A. Abraham.

12 Q. Okay. Very good. But you don't
13 have a problem with it being in those
14 Supreme Courtrooms?

15 A. I think that public school and
16 children that are easily influenced is a
17 much different venue than, as I said,
18 other government buildings.

19 Q. Do you understand that there are
20 some legal scholars that believe the Ten
21 Commandments are part of the grain and
22 substance of all law?

23 A. I understand that some people
24 believe in Big Foot, but that doesn't
25 necessarily make it true.

1 Q. Okay. Well, this time try to
2 answer my question.

3 A. I did.

4 Q. No, you didn't.

5 ATTORNEY SANCHEZ:

6 Can you read back my
7 question?

8 COURT REPORTER READS BACK PREVIOUS
9 QUESTION

10 BY ATTORNEY SANCHEZ:

11 Q. Of law, yes. Of modern law.

12 A. Yes, I understand that some
13 scholars believe that the earth is still
14 6,000 years old. That doesn't make it
15 true, you know.

16 Q. Are you suggesting that those
17 scholars that state that the Constitution
18 is part of the basis for American law is
19 incorrect?

20 A. I understand that one, two, three,
21 four, five --- half of the Ten
22 Commandments have nothing to do with our
23 law.

24 Q. I'll ask the question again. I'm
25 going to ask it until you answer it. Is

100

1 it your contention that any American
2 scholars that believe the Ten
3 Commandments are part and parcel to the
4 laws of the United States as they exist
5 today, that those people are wrong?

6 A. I understand, yes. But half of the
7 Ten Commandments are not law in our
8 United States.

9 Q. Do you understand that there are
10 scholars that believe the Ten
11 Commandments are part of the basis and
12 part of the foundation for American law?

13 A. I answered your question the first
14 time around, sir. I said yes. I
15 understand that some scholars may believe
16 that. I understand that some scholars
17 may believe that this earth is 6,000
18 years old. That doesn't make it true.
19 So I answered your question, sir. The
20 answer is yes, I understand that people
21 have many different beliefs.

22 Q. But my question, I wanted to get
23 that clear, because you didn't ---

24 A. Okay.

25 Q. --- answer my question. My

1 question is do you disagree with those
2 scholars? Do you find those scholars
3 wrong that say that --- make that ---
4 take that position, that the Ten
5 Commandments are part of the basis and
6 part of the fabric of American law as we
7 know it now?

8 A. I would disagree with that.

9 Q. You would disagree with them?

10 A. I would disagree with them.

11 Q. On what basis?

12 A. Because that's my belief.

13 Q. Do you have anything you can point
14 to other than your belief?

15 A. Do you have anything that you can
16 point to?

17 Q. It's not my deposition, ma'am.

18 A. All right. Well, then, no.

19 Q. Is the answer no?

20 A. The answer was yes, I believe that
21 there are people who believe --- scholars
22 who believe that the Ten Commandments are
23 part of, you know, American law and such
24 that ---. My answer was yes. I answered
25 the question.

1 Q. Yes. And then you said ---.

2 A. I answered the question.

3 Q. I said do you agree with them? And
4 you ---.

5 A. I answered the question.

6 Q. I'm trying to get the answer.

7 A. I answered the question for you,
8 sir. Yes, I do believe that there are
9 scholars that believe that. I also
10 believe that there are people who think
11 that the earth is flat, and that it's
12 6,000 years old.

13 Q. But my question to you is not that.
14 My follow-up question was do you disagree
15 with those scholars? And you said yes,
16 you disagreed. And I asked you why and
17 you said that was just your belief. And
18 I asked you, this is the question you did
19 not answer, the question is, do you have
20 anything to point to, other than your
21 personal belief, to support your position
22 that is in contrary to those experts?

23 A. The Treaty of Tripoli.

24 Q. Okay. Explain that.

25 A. Excuse me?

1 Q. Explain it.

2 A. I don't need to explain it. You
3 can reference it. That is my answer.

4 Q. This is a deposition. I can ask
5 you what I wish.

6 A. Okay. All right. Well, then he
7 would have said --- I believe it was
8 Jefferson who said that this is not a
9 Christian nation by any means, and I'm
10 paraphrasing.

11 Q. So on that basis, you believe that
12 the scholars are wrong?

13 A. That and also the Constitution.
14 Yes, I believe you're wrong and those
15 scholars are wrong. We were set up with
16 our Constitution to be a secular
17 government. So no, I believe that those
18 scholars are wrong, that we are not ---
19 that our laws are not built on the Ten
20 Commandments, and that this is not a
21 Christian nation.

22 Q. And you base that off of your
23 reading of the Constitution and what ---
24 your reading of what Jefferson said?

25 A. Correct. At least.

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1 Q. And that's been waived for you?
2 A. Different people have gifted it to
3 me, yes.

4 Q. Who gifted it to you?

5 A. I'm not aware.

6 Q. You're not aware who gifted it to
7 you?

8 A. Nope.

9 Q. All right.

10 A. I see from your exhibit whatever
11 that apparently Dan Barker did it for
12 this past year but nope, I was never made
13 aware of that.

14 Q. Who is Dan Barker?

15 A. I believe he's the co-president of
16 FFRF.

17 Q. Okay. Then it's your testimony
18 that has nothing to do with you being a
19 Plaintiff in this case?

20 A. Correct.

21 Q. All right. Let's go to some basic
22 stuff. Where do you reside?

23 A. Arnold, PA,
24 15068.

25 Q. How long have you resided there?

1 information in the fields provided.

2 Q. Sure.

3 A. And gave a brief description of
4 what I was complaining about.

5 Q. Okay. How did you come to know of
6 the existence of Freedom From Religion
7 Foundation?

8 A. I heard it on the news.

9 Q. You heard it on the news?

10 A. Yeah.

11 Q. What did you hear on the news?

12 A. That FFRF sent a letter complaining
13 about the monument.

14 Q. Was that the Connellsville
15 incident, ---

16 A. I don't think so.

17 Q. --- do you know?

18 A. I don't think it was that one, no.

19 Q. Okay. I guess that's a good
20 follow-up question. Do you remember what
21 entity was involved? Was it a
22 municipality, a School District, what?

23 A. It was Valley School District
24 because that's why my ears perked up was
25 that I heard that they sent a letter

1 regarding the monument at the high
2 school.

3 Q. Oh, okay. I get it. So you had
4 heard that a letter was sent from the
5 Freedom From Religion Foundation to the
6 --- to the New Ken School District, ---

7 A. Right.

8 Q. --- regarding that specific
9 monument?

10 A. Yes, I heard about it in the news.

11 Q. Okay. About when was that, do you
12 know?

13 A. No, I don't.

14 Q. Was it 2012?

15 A. When the first letter was sent?

16 Q. Yeah.

17 A. I don't know.

18 Q. Well, just when you became aware of
19 it is what I'm asking. I'm not worried
20 about the letter or what --. When you
21 heard this media report.

22 A. Yeah. I don't know whenever the
23 letter --- the first letter was dated,
24 but it was after I heard about it.

25 Q. Okay.